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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of
Mark Bresnan et al.
Application No. 09/628,496
Filed: July 28, 2000
For: METHOD AND SYSTEM FOR MAIL
PIECE PRODUCTION UTILIZING A DATA
CENTER AND INTER-RELATED COMMUNICATION NETWORKS

:
:
: DECISION ON PETITION
: TO WITHDRAW THE
: HOLDING OF ABANDONMENT

This is a decision on applicants' renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on June 8, 2004.

The petition is **GRANTED**.

A review of the file record reveals that a non-final Office Action (hereinafter "Action") was mailed to applicants on September 20, 2002. Since a response was not received, the application was held abandoned, and a Notice to that effect was mailed on April 22, 2003.

Applicants' petition submits a statement that the Office action mailed September 20, 2002 was not received until April 2003 when the examiner faxed applicants a copy.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

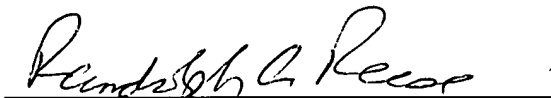
- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;

- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of September 17, 2001. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). The petition filed January 12, 2004 failed to meet requirement (3) above because the supplied docket record included records having the identifier "F-192", with a due date of the 20th associated with the records. Clarification as to this discrepancy was required.

Applicants' renewed petition provides clarification as to the discrepancy identified in the Petition Decision mailed April 13, 2004, attesting to the fact that the notations assigned the identifier "F-192" were automatically generated items in response to applicants' amendment filed December 20, 2001 as part of standard docketing procedures in the firm. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Notice of Allowability and Notice of Allowance and Issue Fees Due of September 24, 2001 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.



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RAR/vdb: 10/4/04